

City of Portland, Oregon **Bureau of Development Services**

Land Use Services

FROM CONCEPT TO CONSTRUCTION

Chloe Eudaly, Commissioner Rebecca Esau, Director Phone: (503) 823-7300 Fax: (503) 823-5630 TTY: (503) 823-6868 www.portlandoregon.gov/bds

Date: February 14, 2018 To: Interested Person

Megan Sita Walker, Land Use Services From:

503-823-7294 / MeganSita.Walker@portlandoregon.gov

NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision.

The reasons for the decision are included in the version located on the BDS website http://www.portlandonline.com/bds/index.cfm?c=46429. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 17-286584 DZ – ROOFTOP SOLAR

GENERAL INFORMATION

Christopher O'Brien | Greenlight Solar **Applicant:**

> 6115 E 18th St Suite B Vancouver, WA 98661 (360) 836-8902

Owner(s): Marybeth Kapsch & Daniel Kapsch

> 5109 N Maryland Ave Portland, OR 97217 (503) 493-0775

Site Address: 5109 N MARYLAND AVE

Legal Description: BLOCK 35 LOT 8, M PATTONS ADD & 2ND

Tax Account No.: R520503056 State ID No.: 1N1E22BB 13300

Quarter Section: 2529

Neighborhood: Overlook NA, contact landuse@overlookneighborhood.org.

Business District: None

District Coalition: North Portland Neighborhood Services, contact Mary Jaron Kelley at

503-823-4099.

Plan District: North Interstate

Zoning: EXd - Central Employment with Design Overlay Zone

Case Type: DZ - Design Review

Procedure: Type II, an administrative decision with appeal to the Design

Commission.

Proposal:

The applicant seeks design review approval for the installation of a solar energy system on the roof of an existing building. The structure is a single-family house built in 1904 and it is located at the corner of N Maryland Avenue and N Webster Street the North Interstate Plan District and in the Central Employment (EX) zone. The proposed solar array consists of black panels with black frames on a dark roof on the south face of the primary roof gable, on the south facing shed roof of an existing dormer, and on the west face of an existing gable dormer facing an interior lot line. The proposed panels are to be installed a minimum of 3 inches and a maximum of 6 inches from the face of the roof surface and are proposed to be a minimum of 1 foot from roof ridgelines, and 2 feet from primary roof eaves. Accessory equipment for the solar array (meter, breaker box, and load center) is also proposed on the north elevation at the northwest corner of the building.

Design Review is required for non-exempt exterior alterations within the Design Overlay Zone.

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33, Portland Zoning Code. The relevant criteria are:

Community Design Guidelines

ANALYSIS

Site and Vicinity: The subject property is bound by N Maryland Avenue to the east and N Webster Street to the south. The 6,000 square foot property consists of an existing single family residence constructed in 1904 and the property is within the North Interstate Plan Area. The vicinity around the subject site is a mix of commercial, retail, light industrial and residential uses. Sites within the corridor along N Interstate were rezoned during the Albina Community Plan in 1993. Because of the public investment into transit [Light Rail/Max] along N Interstate, significant portions of the N Interstate corridor reflect Comprehensive Plan designations to higher density residential (RH) and more intense employment zoning (EX) both with the design (d) overlay zone. The subject parcel is an example of such zoning designations.

Additionally, portions of the Interstate corridor reflect higher density residential zoning, as seen with the High Density Residential (RH) zoning with design (d) overlay on properties immediately east of the site across N Maryland Avenue. Directly north, south, and west, are properties also zoned EXd. Development closer to N Interstate includes commercial and multi dwelling residential uses. The Interstate MAX Yellow line is located along N Interstate Avenue one block west of the subject property. The closest stop is the N Killingswoth Street MAX Station four blocks to the north. TriMet bus route #72 provides east-west transit service along N Killingsworth Street. According to Portland's Transportation System Plan, N Interstate Avenue is a designated District Collector Street, Regional Transitway/Major Transit Priority Street, Regional Main Street, City Bikeway, and City Walkway. N Emerson Street, Maryland Avenue, and Sumner Street are classified as Local Service Bikeways and Walkways.

Zoning: The <u>Central Employment (EX) zone</u> allows mixed uses and is intended for areas in the center of the City that have predominantly industrial type development. The intent of the zone is to allow industrial and commercial uses which need a central location. Residential uses are allowed, but are not intended to predominate or set development standards for other uses in the area.

The <u>design (d) overlay zone</u> promotes the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. This is achieved through the creation of design districts and applying the Design Overlay Zone as part of community planning projects, development of design guidelines for each district, and by requiring design review. In addition, design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **January 11, 2018**. The following Bureaus have responded with no issues or concerns:

Life Safety Division of BDS (See Exhibit E-1).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on January 11, 2018. One written response has been received from either the Neighborhood Association or notified property owners in response to the proposal.

1. Douglas MacLeod, an adjacent property owner, on January 16, 2018, wrote, in support of the proposal noting that they find the requirement of a Land Use Review for this scope of work is inappropriate.

Staff Response: Seeing as the proposal is for exterior alterations in the design overlay zone, if the proposal does not meet the exemptions listed in Portland Zoning Code, Section 33.420.045 Exempt From Design Review Design Review is required. Staff notes that there is an exemption for rooftop solar on pitched roofs noted in PZC, 33.420.045.Z.2 and that there is an opportunity to not go through the Land Use Review process if the proposal were revised to meet the existing exemptions.

ZONING CODE APPROVAL CRITERIA

Chapter 33.825 Design Review Section 33.825.010 Purpose of Design Review

Design review ensures that development conserves and enhances the recognized special design values of a site or area. Design review is used to ensure the conservation, enhancement, and continued vitality of the identified scenic, architectural, and cultural values of each design district or area. Design review ensures that certain types of infill development will be compatible with the neighborhood and enhance the area. Design review is also used in certain cases to review public and private projects to ensure that they are of a high design quality.

Section 33.825.055 Design Review Approval Criteria

A design review application will be approved if the review body finds the applicant to have shown that the proposal complies with the design guidelines for the area.

Findings: The site is designated with design overlay zoning (d), therefore the proposal requires Design Review approval. Because of the site's location, the applicable design guidelines are the Community Design Guidelines.

Community Design Guidelines

The Community Design Guidelines consist of a set of guidelines for design and historic design cases in community planning areas outside of the Central City. These guidelines address the unique and special characteristics of the community plan area and the historic and conservation districts. The Community Design Guidelines focus on three general categories: **(P) Portland Personality,** which establishes Portland's urban design framework; **(E) Pedestrian Emphasis,** which states that Portland is a city for people as well as cars and other movement systems; and **(D) Project Design,** which assures that each development is sensitive to both Portland's urban design framework and the users of the city.

Staff has considered all guidelines and has addressed only those guidelines considered applicable to this project.

P1. Plan Area Character. Enhance the sense of place and identity by incorporating site and building design features that respond to the area's desired characteristics and traditions.

- **D6. Architectural Integrity.** Respect the original character of buildings when making modifications that affect the exterior. Make additions compatible in scale, color, details, material proportion, and character with the existing building.
- **D7. Blending into the Neighborhood.** Reduce the impact of new development on established neighborhoods by incorporating elements of nearby, quality buildings such as building details, massing, proportions, and materials.
- **D8. Interest, Quality, and Composition.** All parts of a building should be interesting to view, of long lasting quality, and designed to form a cohesive composition.

Findings for P1, D6, D7, D8: The proposed solar array consists of black panels with black frames on a dark roof on the south face of the primary roof gable, on the south facing shed roof of an existing dormer, and on the west face of an existing gable dormer facing an interior lot line. The proposed panels are to be installed a minimum of 3 inches and a maximum of 6 inches from the face of the roof surface and are proposed to be a minimum of 1 foot from roof ridgelines, and 2 feet from primary roof eaves. Accessory equipment for the solar array (meter, breaker box, and load center) is also proposed on the north elevation at the northwest corner of the building.

Given the following, the proposal is consistent with the North Interstate Plan Area character, and are designed in a coherent composition that respects the architectural integrity of the existing building:

- The proposed arrays will be parallel to the roof slope on which they are attached:
- The proposed arrays will be offset no more than 6" from the top of the roof shingles to the top of the panels.
- All proposed panels will be black panels with black frames and will blend into the dark roof surface; and
- All proposed accessory equipment (the breaker box and load center) will not mounted to the north façade of the building and will not be visible from the street.

To ensure the that proposal meets the approval criteria, Staff has added conditions of approval that and that the proposed arrays shall offset no more than 6" from the top of the roof shingles to the top of the panels. With the conditions of approval, these criteria are met.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

The proposed solar array is consistent with the North Interstate Plan Area character, and is designed in a coherent composition that respects the architectural integrity of the existing building. The purpose of the design review process is to promote the conservation, enhancement, and continued vitality of areas of the City with special scenic, architectural, or cultural value. With conditions of approval, proposal meets the applicable design guidelines and therefore warrants approval.

ADMINISTRATIVE DECISION

Approval of exterior alterations to an existing structure in the N Interstate Plan District to include the following: Approved per Exhibits C-1 through C-12, signed and dated February 9, 2018, subject to the following conditions:

- A. As part of the building permit application submittal, the following development-related conditions (B through E) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE Case File LU 17-286584 DZ." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
- B. At the time of building permit submittal, a signed Certificate of Compliance form (https://www.portlandoregon.gov/bds/article/623658) must be submitted to ensure the permit plans comply with the Design/Historic Resource Review decision and approved exhibits.
- C. The proposed array shall consist of black panels with black frames.
- D. The proposed arrays shall offset no more than 6" from the top of the roof shingles to the top of the panels.
- E. No field changes allowed.

Staff Planner: Megan Sita Walker

Decision rendered by: ______ on February 9, 2018

By authority of the Director of the Bureau of Development Services

Decision mailed: February 14, 2018

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on December 20, 2017, and was determined to be complete on January 3, 2018.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore, this application was reviewed against the Zoning Code in effect on December 20, 2017.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: May 3, 2018.**

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the

permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Design Commission, which will hold a public hearing. Appeals must be filed **by 4:30 PM on February 28, 2018** at 1900 SW Fourth Ave. Appeals can be filed at the 5th floor reception desk of 1900 SW 4th Avenue Monday through Friday between 8:00 am and 4:30 pm. **An appeal fee of \$250 will be charged**. The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please call the Request Line at our office, 1900 SW Fourth Avenue, Suite 5000, phone 503-823-7617, to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.portlandonline.com.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Design Commission is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Design Commission an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

If this Land Use Review is approved the final decision will be recorded with the Multnomah County Recorder.

• *Unless appealed*, the final decision will be recorded after **March 1, 2018** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

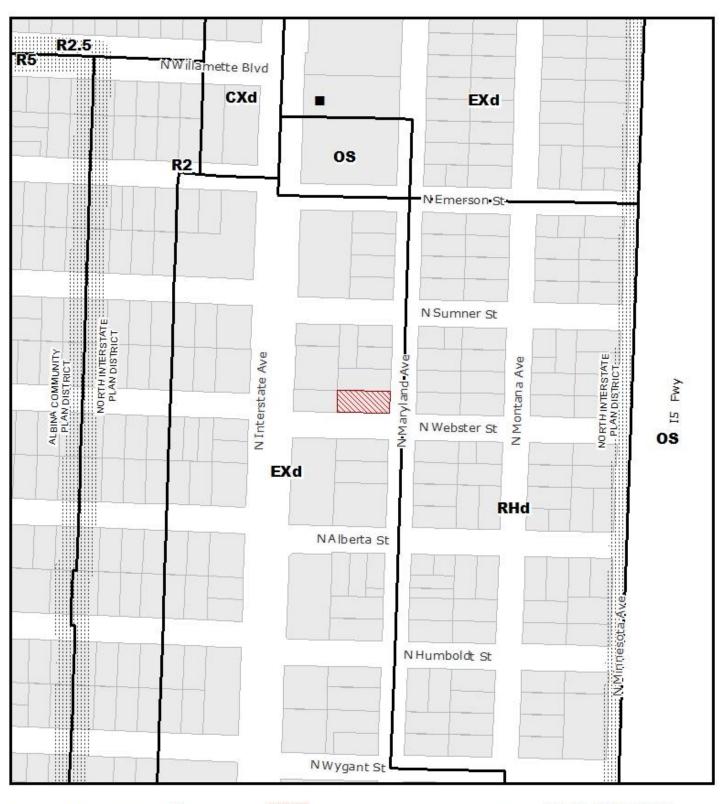
- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Project Description
 - 2. Original Drawing Set
 - 3. Updated Drawing Set, rec'd 01/19/18 Not approved/ For reference only
 - 4. Site Photos
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Cover Page
 - 2. Notes
 - 3. Site Plan (attached)
 - 4. Electrical Plan
 - 5. Solar Attachment Plan
 - 6. Line Diagram
 - 7. Design Tables
 - 8. Equipment Elevation & Placards (attached)
 - 9. Assembly Sections & Details
 - 10. Assembly Sections & Details
 - 11. Assembly Sections & Details
 - 12. Specifications
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Life Safety Division of BDS
- F. Correspondence:
 - 1. Douglas MacLeod, an adjacent property owner, on January 16, 2018, wrote, in support of the proposal noting that they find the requirement of a Land Use Review for this scope of work is inappropriate.
- G. Other:
 - 1. Original LU Application
 - 2. Email correspondence between Staff and the Applicant

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).





Site

■ Historic Landmark

File No. LU 17-286584 DZ

1/4 Section 2529

Scale 1 inch = 200 feet

State ID 1N1E22BB 13300

Exhibit B Dec 22, 2017

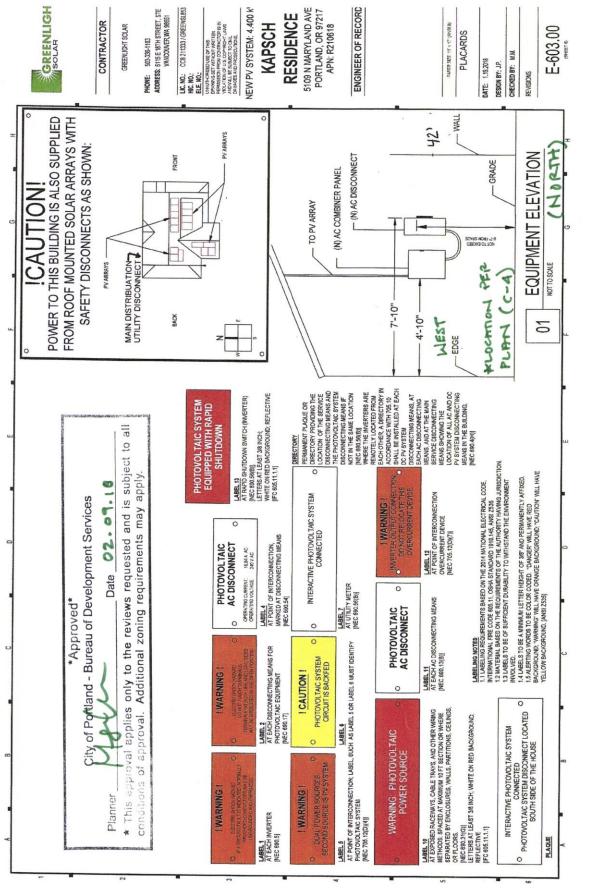
KAPSCH

RESIDENCE

5109 N MARYLAND AVE. PORTLAND, OR 97217 APN: R210618

ENGINEER OF RECORD

PAPER SIZE IT # 17 (ANSI 8) SITE PLAN DATE: 1.19.2018 DESIGN BY: J.P. A-101,00



EXH C-8 W 17-286584 DZ